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3 Why'd you do it, Westy?

Trial settlement shocks supporters

By Carlton Sherwood
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It wasn't until Monday morning that Tony Bliss got what in military parlance is known as "the word" — and it came straight from the general himself, William C. Westmoreland.

An out-of-court settlement had been struck with CBS News over the weekend, Gen. Westmoreland hurriedly explained over the telephone, and a press conference was scheduled for that afternoon to formally announce what already was becoming the headline story of the week.

Could Tony, as one of the general's loyal supporters in the case, drop what he was doing and drive into New York City from his Long Island home to stand before the television cameras, Gen. Westmoreland wanted to know.

He really didn't have to ask. Literally and figuratively, Tony Bliss epitomizes the "good soldier."

As a paratrooper with the 101st Airborne Division, Mr. Bliss, then a sergeant, served two combat tours in Vietnam under the general's command. In 1982, Mr. Bliss again took up the fight for Gen. Westmoreland, raising some \$130,000 — mostly in small contributions from other Vietnam veterans — for the one-time field commander's legal war chest.

If Mr. Bliss felt slighted by the belated notification of the settlement, he wasn't alone.

David Doren, Washington co-counsel for Gen. Westmoreland and the lead trial lawyer in the case since CBS began its defense in early January, learned of the accord several hours after it was signed, about 9:30 Sunday night, from a reporter looking for a comment on the settlement signed earlier that day.

Mr. Doren, like other lawyers working on Gen. Westmoreland's behalf in New York and Washington, knew nothing of the agreement or even that chief counsel Dan Burt was deeply engaged in settlement talks with CBS. And, like his colleagues, Mr. Doren was stunned to discover that while he was preparing for the final week of the 4½-month trial, the case already had been quietly negotiated away.

Dejected and angered, Mr. Doren took no part in the press conference.

Tony Bliss did, reasoning that he'd been through too much to bail out on

"Westy" now. Loyalty and honor dictated he

see the matter through to its conclusion, no

matter what that turned out to be.

From close quarters, the former combat veteran watched as Mr. Burt and Gen. Westmoreland declared a victory, reading and rereading a passage from the single paragraph settlement agreement they had worked out privately with the network, one which they claimed constituted the "apology" the general had been seeking from CBS for more than 2½ years.

With exaggerated emphasis, bordering on sarcasm, Mr. Burt read the key sentence of the agreement for a third time.



Photos by AP (left) and UPI

Left: George Crile, producer of CBS' documentary, "The Uncounted Enemy: A Vietnam Deception." Right: Dan Burt, attorney for Gen. William Westmoreland in his libel suit.

"CBS... RESPECTS... Gen. Westmoreland's... LONG... and... FAITHFUL... service to his country and... NEVER... intended to assert, and... DOES NOT BELIEVE, that he was... UNPATRIOTIC... or... DISLOYAL... IN PERFORMING HIS DUTIES... as he saw them."

While Tony Bliss' conviction that CBS had defamed and libeled his former commanding officer remained unshaken, he, like many others, isn't at all convinced that the carefully crafted sentence represents an apology, much less a reasonable trade-off for years of humiliation.

"There's no point calling it a victory; it wasn't," Mr. Bliss said a few days later. "The case should have gone to the jury. Why it didn't is beyond me. But one thing is clear: It was a bad decision. I feel sorry for 'Westy'."

Those sentiments have been echoed by other former military men who, like Mr. Bliss, not only lent their moral support to Gen. Westmoreland's uphill legal battle but raised large portions of the total \$3.2 million needed to fuel his \$120 million libel suit against CBS.

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Among those, Adm. Thomas H. Moorer, former chairman of the Joint Chiefs of Staff, who said he was very disappointed that his colleague had opted for a last-minute settlement over a jury verdict.

"They [CBS] didn't really apologize," he said.

Even the jurors themselves, after being released from their several months' long oath of silence this week, expressed surprise and befuddlement over the agreement.

"I have a hunch he [Gen. Westmoreland] might have come away with more than he settled for," Myron Gold, a juror said. "I don't understand why he waited this long to do this."

While Gen. Westmoreland's supporters, the jurors and even some of his own lawyers may never learn exactly what prompted the retired commander of U.S. forces in Vietnam to throw in the towel and make an eleventh-hour pact with his arch-foes, there are more than enough possibilities to choose from.

First, there is Gen. Westmoreland and his lawyer's explanation that they extracted, for the first time, language from CBS which allowed the aging general to finally retire with honor.

"The general wanted one thing from the beginning of this case," Mr. Burt said. "He wanted his reputation back... he wanted an apology and he got that."

Gen. Westmoreland himself said that if CBS had issued such a statement in 1982, after the network had broadcast its 90-minute documentary, "The Uncounted Enemy: A Vietnam Deception," and before he filed suit some eight months later, "it would have fully satisfied me."

CBS officials, however, tell a different story.

Network attorney David Boies and CBS president Van Gordon Sauter told reporters they had

always been prepared to release such a statement but it wasn't until last week that Mr. Burt was willing to accept their language without an apology and a monetary award.

Mr. Boies noted that the passage Gen. Westmoreland claims represents an apology from CBS was "nearly identical" to his opening remarks to the jury last October.

In any case, CBS attorneys and executives say they "made no concessions on the fairness or accuracy" of the disputed documentary, which accused Gen. Westmoreland of heading a conspiracy to deceive his military and civilian superiors, including President Johnson, about the true strength of enemy forces in Vietnam during the year leading up to the 1968 Tet offensive.

A second theory, advanced primarily by the press, is that the general's case started unraveling last month as CBS began putting its own witnesses — some of them former staff officers — on the stand to verify CBS' accusations that Gen. Westmoreland ordered his subordinates to manipulate enemy troop figures.

Those news reports claim that faced with certain defeat, Mr. Burt worked frantically to get any concessions from CBS, no matter how minor, and presented the final statement to Gen. Westmoreland as his last chance of avoiding further humiliation.

Mr. Burt and Gen. Westmoreland have repeatedly denied that scenario.

As for the witnesses whose testimony reportedly caused the general's case to collapse — former Col. Gains Hawkins, Maj. Gen. Joseph McChristian and CIA analyst George Allen — none reported that Gen. Westmoreland had ordered them to take any questionable action regarding enemy troop numbers, as CBS alleged.

In fact, if any of the three were going to charge their commanding officer with issuing such directives, Gen. Westmoreland's attorneys would have been aware of the testimony, since all three men were ques-

tioned thoroughly under oath during pretrial depositions more than a year earlier.

As it was, two of the men, Col. Hawkins and Mr. Allen, previously appeared on at least one other news program, PBS' "Inside Story," where, along with a defendant in the case, Samuel Adams, they refuted CBS' conspiracy charges.

"I never subscribed to the conspiracy theory," Col. Hawkins told PBS newsmen Hodding Carter during the April 1983 program. "I was told, 'Take another look. Bring them down because of the reaction, public reaction to them, this is what I interpreted. There was no direct order. I cooked the books.'"

On the same program, Mr. Allen, a former deputy chief of Vietnamese affairs who testified for CBS, described the dispute this way:

"I would not have characterized the episode as a conspiracy... more of a conflict between technicians, intelligence and and policy people."

Mr. Adams, who served as both a paid CBS consultant and Gen. Westmoreland's principal accuser in the documentary, told Mr. Carter, "There was an intention to deceive the American public. Less plausible to deceive the president or the troops in the field. It was an unintended deception."

While some journalists reported that the testimony of the CBS witnesses had severely damaged Gen. Westmoreland's case, the jurors themselves didn't necessarily agree.

"I was waiting for CBS to produce a witness who would say the general personally ordered them to do something wrong," Juror Randy Frost said. "That witness never came."

Mr. Burt, who has next to no courtroom experience, is largely faulted for running the clock down on Gen. Westmoreland's case.